

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY  
D/B/A DOMINION VIRGINIA POWER

CASE NO. PUE-2005-00018

For a certificate of public convenience  
and necessity for facilities in Loudoun County:  
Pleasant View-Hamilton 230 kV Transmission Line  
and 230 kV-34.5 kV Hamilton Substation

ORDER REMANDING FOR FURTHER PROCEEDINGS

On April 14, 2005, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an Application of Virginia Electric and Power Company for Approval and Certification of Electric Facilities: Pleasant View-Hamilton 230 kV Transmission Line and 230 kV-34.5 kV Hamilton Substation ("Application"). Dominion proposes to construct and to operate in Loudoun County a 230 kV transmission line, which would run from the Company's existing Pleasant View Substation to a new Hamilton Substation. The Company has identified a proposed route approximately 15.7 miles in length and five alternative routes ranging from approximately 12.0 miles to 15.3 miles in length. Approximately 7.5 miles of the proposed route lies within the allotted territory of Northern Virginia Electric Cooperative. The remaining 8.2 miles of the proposed route and the site of the Hamilton Substation lie within the Company's allotted territory.

On May 6, 2005, the Commission issued an Order for Notice and Hearing that directed Dominion to publish public notice of its Application, established a procedural schedule, set

hearing dates to receive public comment and evidence, and appointed a Hearing Examiner to conduct all further proceedings.

On January 7, 2007, Hearing Examiner Howard P. Anderson, Jr., entered a Report that summarized the record, analyzed the evidence and issues in this proceeding, and made certain findings and recommendations ("Hearing Examiner's Report"). The Hearing Examiner explained the extensive procedural history of this case and identified the following as respondents who filed notices of participation in this proceeding:<sup>1</sup>

- Beauregard Estates Homeowners Association ("Beauregard Estates");
- Dwayne Brock Davenport;
- Kincaid Forest Homeowner's Association, Inc. ("Kincaid Forest");
- Leesburg Luxury Homes, L.L.C.;
- Loudoun County Fair and Associates, Inc. ("Loudoun Fair");
- Loudoun County, Virginia;
- National Trust for Historic Preservation;
- Northern Virginia Regional Park Authority ("NVRPA");
- Orme Farm, L.L.C. ("Orme Farm") and Cammack Brothers Partnership, L.P. ("Cammack Brothers");
- Outlands, Inc.;
- Renaissance Land, LLC;
- The Reserve at Rokeby Farm Property Owners Association, Inc. ("Rokeby Farm") and Centex Homes ("Centex");
- Richard R. Saunders, Jr. and Dianne Saunders;
- Save the Trail, Inc.;
- Scenic Loudoun Legal Defense, Inc.;
- Shenstone Farm Homeowner's Association and certain homeowners along Dry Mill Road, Leesburg ("Shenstone/Dry Mill");
- Town of Leesburg, Virginia; and
- Woodlea Manor Conservancy Homeowners Association ("Woodlea Manor").

As related by the Hearing Examiner, the record included statements of 167 public witnesses who testified at the public hearings in Leesburg on February 8 and 9, 2006.<sup>2</sup> The

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<sup>1</sup> Hearing Examiner's Report at 1-3, 7. The Examiner noted that Loudoun Fair and the Saunders withdrew as respondents, and that Mr. Saunders spoke as a public witness. *Id.* at 2 n.1, 7.

<sup>2</sup> *Id.* at 7.

Examiner also noted that "the overwhelming majority urged the Commission to require that the proposed transmission line be placed underground."<sup>3</sup> As highlighted in the Hearing Examiner's Report, the record in this case shows that "hundreds of letters, emails, and petitions have been filed with the Commission as public comment in this proceeding," that Save the Trail "presented petitions containing 4,740 signatures," that the "Commission received approximately 272 petitions from individuals of Woodlea Manor," that "Save Scenic Loudoun/Neighbors Against the Southern Transmission Line ('Save Scenic Loudoun') collected more than 800 signatures," and that the "following localities and commission submitted resolutions or comments:" The Town of Leesburg; The Town of Purcellville; The Town of Hamilton; The Town of Herndon; The Town of Hillsboro; The Town of Vienna; Loudoun County; Arlington County; City of Alexandria; Fairfax County; and Northern Virginia Regional Commission.<sup>4</sup>

The Hearing Examiner commenced the evidentiary hearing in Richmond on March 27, 2006, and then suspended the same to provide additional public notice of a new route (referred to as the modified D route) that the Examiner found should be considered in this proceeding.<sup>5</sup> The Hearing Examiner reconvened the hearing on June 19, 2006, and with the exception of weekends and holidays, the hearing proceeded until its conclusion on July 13, 2006. The following counsel appeared at the hearings:<sup>6</sup>

- James C. Dimitri, Esquire; Stephen H. Watts II, Esquire; Lisa S. Booth, Esquire; Pamela Johnson Walker, Esquire; and Jill C. Nadolink, Esquire, for Dominion;

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 10, 13-14.

<sup>5</sup> *Id.* at 6, 15.

<sup>6</sup> *Id.* at 15.

- Thomas B. Nicholson, Esquire, for the Town of Leesburg and Beauregard Estates; and Barbara Beach, Esquire, for the Town of Leesburg;
- John W. Montgomery, Jr., Esquire, for Loudoun County;
- Michael A. Montgomery, Jr., Esquire; and Anthony Gambardella, Esquire, for Orme Farm and Cammack Brothers;
- John H. Rust, Jr., Esquire, for Save the Trail;
- Cliona Mary Robb, Esquire, for NVRPA;
- James E. Cornwell, Jr., Esquire; M. Ann Neil Cosby, Esquire; Benjamin R. Lacy, IV, Esquire; Robert McKew, Esquire; Kenneth F. Parks, Esquire; and Michael Gartner, Esquire,<sup>7</sup> for Scenic Loudoun Legal Defense and Woodlea Manor;
- Kelly Thompson Cochran, Esquire; David S. Wolf, Esquire; and William R. Richardson, Jr., Esquire, for Oatlands and The National Trust for Historic Preservation;
- Matthew D. Pethybridge, Esquire; and Jennifer Shirey, Esquire, for Kincaid Forest;
- Charles W. Hundley, Esquire; and Catharine T. Slater, Esquire, for Dewayne Brock Davenport;
- John E. Rinaldi, Esquire; and Wendy A. Alexander, Esquire, for Centex Homes, Rokeby Farm, and WCI Mid-Atlantic U.S. Region, Inc. ("WCI");
- Randolph A. Sutliff, Esquire, for Shenstone/Dry Mill; and
- Wayne N. Smith, Esquire; and Arlen K. Bolstad, Esquire, for Commission Staff ("Staff").

Post-hearing briefs were filed on September 18, 25, and 26, 2006.<sup>8</sup>

The Hearing Examiner's Report included the following findings:<sup>9</sup>

1. There is a need for the Company's proposed 230 kV Pleasant View to Hamilton transmission line;
2. There is a need for the Company's proposed Hamilton Substation;
3. Construction of the proposed transmission line and substation is required by the public convenience and necessity;
4. The Company has failed to prove that existing rights-of-way cannot serve the needs of the Company;

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<sup>7</sup> Mr. Gartner appeared for Woodlea Manor only. Tr. 727.

<sup>8</sup> Hearing Examiner's Report at 16.

<sup>9</sup> *Id.* at 80-81.

5. The proposed transmission line should not be constructed underground;
6. An overhead transmission line along the modified D route incorporating adjustments B.1, B.5, segment 7 prime ("Modified D"), and using 145-foot towers where appropriate will reasonably minimize the adverse impact on scenic assets, historic districts, and the environment of the area concerned;
7. No other viable route for the location of the transmission line exists that is not in conflict with the public interest;
8. There is no evidence in this proceeding, scientific or otherwise, to conclude that electric and/or magnetic fields pose a risk or hazard to human health; and
9. The Company should follow federal EPA guidelines in its application of herbicides for right-of-way maintenance.

The following participants filed comments on the Hearing Examiner's Report on or before January 25, 2007: the Company; Dewayne Brock Davenport; Kincaid Forest; Loudoun County; NVRPA; Orme Farm and Cammack Brothers; Outlands and The National Trust for Historic Preservation; Rokeby Farm, Centex, and WCI; Save the Trail; Shenstone/Dry Mill; and Town of Leesburg.

NOW THE COMMISSION, having considered the record, the pleadings, the Hearing Examiner's Report, the comments filed in response thereto, and the applicable law, is of the opinion and finds as follows.

Code of Virginia

Section 56-265.2 A of the Code of Virginia ("Code") provides that "[i]t shall be unlawful for any public utility to construct ... facilities for use in public utility service ... without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege." For overhead lines of 150 kV or more, § 56-265.2 A also requires compliance with the provisions of § 56-46.1 of the Code.

Section 56-46.1 A of the Code directs the Commission to consider several factors in reviewing proposed new facilities. It provides:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact. ... In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted.... Additionally, the Commission (i) shall consider the effect of the proposed facility on economic development within the Commonwealth and (ii) shall consider any improvements in service reliability that may result from the construction of such facility.

Section 56.46.1 B of the Code states that "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned...."

Section 56-46.1 D of the Code explains that "'environment' or 'environmental' shall be deemed to include in meaning 'historic,' as well as a consideration of the probable effects of the line on the health and safety of the persons in the area concerned."

Section 56-46.1 C of the Code directs that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company."

Section 56-259 C of the Code states that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

Section 56-46.1 E of the Code provides as follows:

In the event that, at any time after the giving of the notice required in subsection B of this section, it appears to the Commission that consideration of a route or routes significantly different from the route described in the notice is desirable, the Commission shall cause notice of the new route or routes to be published and mailed in accordance with subsection B of this section. The Commission shall thereafter comply with the provisions of this section with respect to the new route or routes to the full extent necessary to give interested parties in the newly affected areas the same protection afforded interested parties affected by the route described in the original notice.

### Need

Although certain parties and public witnesses challenged the need for the line, we find that additional transmission facilities are needed to serve the Purcellville Load Area. We agree with the Hearing Examiner that additional facilities will provide substantial reliability improvements to such area. Company witnesses Burnam and LaVigne testified that, under normal load conditions, the load in the Purcellville Load Area will nearly exceed the capacity of the distribution circuits by the summer of 2011 and that, with the loss of one of the four circuits due to an outage, the load will nearly exceed the capacity of the remaining three circuits by the summer of 2007 and will exceed that capacity by the summer of 2008.<sup>10</sup> The Hearing Examiner also explained that the Company evaluated reasonable alternatives to the proposed line; the Examiner concluded, as did the Company, that "no alternative or combination of alternatives to the proposed transmission line and substation offers a reasonable solution to the explosive growth in electric demand in the Purcellville area."<sup>11</sup> Loudoun County is one of the fastest

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<sup>10</sup> See, e.g., Dominion's January 25, 2007 Comments and Exceptions on Hearing Examiner's Report at 4-5.

<sup>11</sup> Hearing Examiner's Report at 28.

growing localities in the United States.<sup>12</sup> We find that the record establishes that additional transmission facilities are necessary for the Company to serve reasonably estimated load growth and to maintain long-term reliability in the Purcellville Load Area.<sup>13</sup>

### Routes

As explained in prior cases, in evaluating proposed routes for a new transmission line, the Commission "consider[s] each statutory criterion on an individual basis and as part of the whole, in light of all the relevant statutory criteria and with regard to the concerns raised by the parties and public witnesses."<sup>14</sup> We review all proposed routes and fully consider the benefits and adverse impacts of the same pursuant to the statutory requirements.<sup>15</sup> As part of such review in the current proceeding, we request that the Hearing Examiner supplement the record and more fully address certain issues.

We remand this case to the Hearing Examiner for further proceedings to address the following matters:

- 1) construction time required for routes E7, D3, and Modified D;
- 2) right-of-way acquisition costs for routes E7, D3, and Modified D;
- 3) detailed engineering data for the portion of the Modified D route comprising segments within or adjacent to the Washington & Old Dominion Trail ("W&OD Trail") – including pole placements and existing and/or new right-of-way;

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<sup>12</sup> See, e.g., *id.* at 28 ("Unbridled growth in western Loudoun County is driving the need for the Company's proposed transmission line and substation. According to the U.S. Census Bureau, Loudoun County was the fastest growing county in the United States in 2004. Loudoun County is still one of the fastest growing counties in the country today and there is no indication that this growth will abate in the foreseeable future.").

<sup>13</sup> We make no determination herein on the specific facilities or the transfer capability (MVA) required.

<sup>14</sup> See *Application of Virginia Electric and Power Company d/b/a Dominion Virginia Power*, Case No. PUE-2002-00702, 2004 S.C.C. Ann. Rept. 347, 349 (Oct. 8, 2004).

<sup>15</sup> See *id.* at 350.



- 4) any benefits of individual segments of the E7 and D3 routes in relation to reasonably expected future transmission requirements;
- 5) for purposes of underground construction, utilization of cross-linked polyethylene ("XLPE") power lines as opposed to high pressure fluid-filled ("HPFF") powerlines;
- 6) underground construction of the portion of the E7 and D3 routes comprising segments along or adjacent to 49, 25, 23, and 22 – including right-of-way, cost, reliability, and impact on scenic assets, historic districts and environment; and
- 7) underground construction of the portion of the Modified D route comprising segments along or adjacent to the W&OD Trail – including right-of-way, cost, reliability, and impact on scenic assets, historic districts and environment.

Accordingly, IT IS ORDERED THAT:

- (1) This case is remanded to the Hearing Examiner for further proceedings as set forth herein.
- (2) On or before April 6, 2007, the Company shall file with the Commission Clerk an original and fifteen (15) copies of testimony and exhibits addressing the matters on remand as set forth herein and shall serve a copy of the same on the Staff and all respondents.
- (3) On or before May 18, 2007, each respondent shall file with the Commission Clerk an original and fifteen (15) copies of any testimony and exhibits addressing the matters on remand as set forth herein and shall serve a copy of the same on Staff, the Company, and all other respondents.
- (4) On or before June 1, 2007, Staff shall file with the Commission Clerk an original and fifteen (15) copies of any testimony and exhibits addressing the matters on remand as set forth herein and shall serve a copy of the same on the Company and all respondents.
- (5) On or before June 15, 2007, the Company shall file with the Commission Clerk an original and fifteen (15) copies of all testimony and exhibits that it expects to offer in rebuttal to

the testimony and exhibits of the respondents and the Staff permitted herein and shall serve a copy of the same on the Staff and all respondents.

(6) On July 9, 2007, the Hearing Examiner shall convene an evidentiary hearing on remand. At the conclusion of the proceedings on remand, the Hearing Examiner shall issue a supplemental report to the Commission.

(7) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.

A True Copy  
Teste:

  
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